

APPROVED: Meeting No. 25-82

ATTEST:

Helen M. Heneghan

MAYOR AND COUNCIL

ROCKVILLE, MARYLAND

MEETING NO. 17-82

May 10, 1982

The Mayor and Council of Rockville, Maryland, convened in executive session, in the City Manager's Conference Room at 7:00 p.m. on Monday, May 10, 1982.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II
(arrived at 7:30 p.m.)

In attendance: City Manager Larry Blick; City Attorney Paul Glasgow;
Director of Community Development and Housing Assistance Douglas Horne;
Special Counsel Roger Titus.

Re: Executive Session

The Mayor and Council in executive session, discussed matters of potential litigation.

Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned.

Re: General Session

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, May 10, 1982, at 8:00 p.m.

PRESENT

Mayor John R. Freeland

Councilman Steve Abrams

Councilman Douglas Duncan

Councilwoman Viola Hovsepian

Councilman John Tyner, II

The Mayor in the Chair.

In attendance: City Manager Larry Blick; City Clerk Helen Heneghan;
City Attorney Paul Glasgow; Director of Community
Development and Housing Assistance Douglas Horne; Information Officer Sue M. Patterson;
Assistant City Manager Daniel Hobbs; Budget Officer Anna Lee Berman.

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Re: City Manager's Report

Mr. Blick reported the following:

1. Channel 7 was at the Rockville Municipal Swim Club and filmed the swim team, particularly Grace Weiders. It will be shown Wednesday night.
2. Today was the first day of the youth summer employment program applications. This is a program of 14 to 18 year olds working for the City. There were 30 applications.
3. Roger Titus reported that on Friday, the Court of Appeals heard the legislative redistricting case. It is expected that the oral arguments will be finished by June 1 and an opinion will come on June 4.
4. On May 7 the Gaithersburg case of Hardy vs. Housing Management was heard and decided. No new issues came from the decision. The question was whether or not Gaithersburg had the power to pass rent control legislation. The Court decided that they did have that power.

Re: Proclamation - Historic
Preservation Week - May 9-15

Proclamation No. 3-82

There being no objection from the Council, Mayor Freeland proceeded to issue Proclamation No. 3-82, proclaiming the week of May 9-15 as Historic Preservation Week in the City of Rockville. Councilman Tyner read the proclamation at the request of the Mayor in which it was urged that all people in Rockville take a special look at the historic buildings of the City and recognize the meaning of this special week. Eileen McGuckian, of Peerless Rockville, made presentations to people who had been active in the area of preservation. The awardees were Aldre Inc., for Jackson Place; Mr. Al Brault for the Brault building on South Washington Street; Parkway Woods, a Housing Opportunities Commission development; the Mendelson family for their property on Anderson Avenue; and Mr. William Vandergrift for the Town Center Inn and Gatwicks Restaurant on North Washington Street in Rockville. (At this time, Mayor Freeland left the meeting and Councilman Tyner assumed the Chair.)

Re: Award of Contract: Bid
No. 43-82, Roof Improvements
to Rockville Municipal
Swimming Pool

Bids to reroof the outdoor pool bathhouse and snack bar buildings were sought since both roofs were leaking in several spots, causing damage to

the interiors of the buildings and affecting the roof insulation. Both roofs are built-up or slag roofs.

Bid documents specified a roof-over for both buildings, using either the TROCAL or BRAAS membrane systems. Both of these roofing systems utilize the PVC plastic membrane, and include a 10-year manufacturer's warranty. Products of both manufacturers have proven performance records over the past two decades.

Bids were opened in the Council Chambers of City Hall at 3:30 p.m. on April 27, 1982. The bids were as follows:

<u>Contractor</u>	<u>Bathhouse</u>	<u>Snack Bar</u>	<u>Total</u>
Orndorff & Spaid, Inc. Beltsville, Maryland (TROCAL)	\$11,099	\$ 5,630	\$16,729
Fick Bros. Roofing Company, Inc. Baltimore, Maryland (TROCAL)	\$12,000	\$ 6,500	\$18,500
The James Meyers Co., Inc. Beltsville, Maryland (TROCAL)	\$13,213	\$ 7,369	\$20,582
CMS Roofing and Sheet Metal Co., Inc. Rockville, Maryland (TROCAL)	\$14,323	\$ 6,450	\$20,773

Orndorff & Spaid, Inc., of Beltsville, Maryland, was the low bidder for both parts of the project. They are certified by the product manufacturer, Dynamit Nobel of America, Inc. as a TROCAL installer, and Orndorff & Spaid has previously performed roofing work for the City on the Public Works Building and the renovated Civic Center Lobby.

The FY 82 approved CIP contained \$25,600 in Project R-105 which was budgeted for the reroofing of the indoor pool building. The indoor pool roof bid was approved earlier this year in the amount of \$12,000. Due to the low bid received, staff bid out the remaining two swim center roofs (bath house and snack bar building). The bid received to do both roofs was \$3,129 more than the \$13,600 remaining in the pool roof account (Project R-105). Both roofs are in very poor shape and need replacement.

Staff recommends that Bid No. 43-82 be awarded to Orndorff and Spaid, Inc. of Beltsville, Maryland, in the amount of \$16,729, and that the appropriation be increased by \$3,129 for project R-105 (Indoor Pool Roof Replacement) FY 82 CIP.

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On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Bid No. 43-82 for roof improvements to the Rockville Municipal Swim Center Pool was awarded to Ordnorff & Spaid, Inc., in the amount of \$16,729 and the appropriation was increased by \$3,129 for the indoor pool roof replacement.

Re: Award of Contract: Bid
No. 47-82, College Square
Subdivision, sewer and water
mains

Bids were opened on Tuesday, April 27, 1982, at 3:00 p.m. in the City Hall Council Chamber covering the construction of sewer and water mains and house services for Part I of College Square Subdivision. This project will serve eighty new townhouse dwellings and was authorized, by the Mayor and Council, as a special assessment project on October 26, 1981.

Eighteen bids were picked up by contractors and twelve were received as follows:

Ennis & Son, Inc., Camp Springs, Maryland	\$111,340.00
Denneau Construction, Inc., Gaithersburg, Maryland	114,585.00
Mitchell-Wiley, Inc., Ellicott City, Maryland	127,487.00
Joseph Canova & Son, Inc., Laurel, Maryland	131,850.00
Calcon Company, Inc., Gaithersburg, Maryland	137,845.00
City Contractors, Inc., Hyattsville, Maryland	138,384.00
Rapp Contracting, Inc., Beltsville, Maryland	141,603.50
Pleasant Excavating Company, Inc., Clarksburg, Maryland	146,509.00
Lancraft Company, Inc., Alexandria, Virginia	154,282.00
DiMeglio Construction Company, Inc., Adelphia, Maryland	164,040.00
Alejo Lopez, Jr. Construction Company, Bladensburg, MD	165,462.00
Tribble Construction, Inc., Fairfax, Virginia	172,891.00
Engineer's Estimate	\$130,610.00

The prices proposed by the low bidder, Ennis and Son, Inc., are extremely favorable, reflecting the current trends of reduced prices for water and sewer installations. This contractor is experienced and, while never having worked for the City, has previously performed similar work in a satisfactory manner for the Washington Suburban Sanitary Commission.

Staff recommends an award to the low bidder, Ennis and Son, Inc., in the amount of their bid of \$111,340.00.

Councilman Duncan asked the total number of homes that will be constructed there since this bid refers to Part I. Mr. Butchart said there will be a total of 160 residences when the project is completed - 80 in each. Councilman Duncan asked if the process might be explained. The City Manager explained the special

assessment process whereon the City had always done the water and sewer main work and then billed to the developers, a special assessment, which is passed on to the homeowners. Quite recently the City changed that policy and will no longer be doing the work for the developers; however, those projects that were already in the pipeline had their commitments honored. Councilman Tyner noted that this new process keeps the City in pace with other jurisdictions.

On motion of Councilman Abrams, duly seconded and passed by unanimous vote of all present, Bid No. 47-82, College Square Subdivision, sewer and water main, was awarded to Ennis & Son, Inc., in the amount of \$111,340.00, the low bidder.

(At this time Mayor Freeland returned to the meeting)

Re: Appointments

Mayor Freeland proposed the name of Harvey Zuckman as a member of the Montgomery County Cable Television Advisory Committee. Mayor Freeland explained what this committee is and the importance of it in the award of a cable television system for the best of Rockville citizens. He noted Mr. Zuckman's fine credentials. He is currently a professor at Catholic University. Councilman Abrams agreed and said the City is lucky to have a person of Mr. Zuckman's calibre in the community. He was happy he saw fit to apply. Mayor Freeland noted that it is his intention to create a City commission on cable television this fall. This commission will guide the City to see that it gets maximum use from County cable. Councilman Tyner asked if Mr. Zuckman might meet with the Councilmembers who have not had the pleasure of meeting him.

Re: Citizen's Forum

Mayor Freeland opened the meeting to those citizens who wished to address the Mayor and Council:

1. Michael Gordon. Mr. Gordon said that the sign saying "Yield to Pedestrians" has been removed from the south lane on Washington Street. He would hope the traffic light is put in place while people are still around to enjoy it.

2. An unidentified citizen at 712 South Stonestreet Avenue told the Mayor and Council that his home faces the new ramp being constructed in conjunction with Metro and dust is a serious problem. The street is very dirty and there is no reason to excuse Metro contractors from doing their duty. Also reducing the size of the street causes turning problems. The City Manager said he would look into this.

3. Howard Silberstein, 2008 Dundee Road. Mr. Silberstein said the City has no data base on unemployment and they should be linked up with the County and State to share information now that we have a computer. He said there is a significant minority population in this City. He was disappointed when he looked through the fire department, police department and City staff and saw that it does not reflect the minority population. He is also concerned about the City's employment policy and feels that the City should extend itself and be an example to others. He also would wish that developers in the City look at the employment of Rockville people first before they go outside the City in an occupation search. Mayor Freeland said the new computer system data base's compatibility with the County's system will certainly extend the City's capabilities. It will be on line in the near future and programs are still being added. He said he sat down a few weeks ago with the black leaders of the community to discuss the employment of minorities, not only in the City government, but in the private sector as well. He does not know what further steps can be taken. Councilman Tyner said the new neighborhood planning concept that has been adopted as part of the Master Plan extends the use of the census tract in neighborhood planning. That should extend the City's data basis. Mayor Freeland said it's quite possible an unemployment survey might be done by the Chamber of Commerce in conjunction with the Job Fair.

4. Dorothy Sager, 118 Monroe Street. Mrs. Sager said she would like to discuss condominium law and she is president of the Association of Unit Resident Owners. She would like an opportunity to meet with the Council and discuss Bill 76-81 the so called Sunshine Bill and the willingness of the County Consumer Office to work with the City since condominium boards work as a form of government and there are many laws that apply to them. Councilman Abrams said he would like an opportunity to even improve on what the County has done. The Mayor asked the City Manager to set up a meeting to see what steps can be taken.

5. Robert Weirich, Chairman of the Traffic & Transportation Commission. Mr. Weirich said that 10 years ago an agreement was reached and pursued relentlessly throughout that time on the Gude Drive landfill. The closing is now imminent and he is concerned with any action that would change Rockville's position. The people of Laytonsville have been extremely single minded. He is concerned that if they are successful in keeping Laytonsville closed that cell B at Gude could become an alternative. He asked that the Rockville Mayor and Council allow the

Montgomery County Council and Laytonsville to work it out. Councilman Abrams asked Mr. Weirich if he was suggesting that the City take a position of telling people it will not listen and they are not to bring forward their proposals. Mr. Weirich said on the contrary; he is not saying that at all. He is simply asking that this Mayor and Council not make a decision that will change the previous policy. Councilman Abrams said it is no secret that he and Mayor Freeland met with the County Council and asked them to tell the City what they planned to do and what alternatives they can suggest. And, if they offer good alternatives, Mayor Freeland and Councilman Abrams would bring it back to this Mayor and Council. The willingness to listen is not an offer to negotiate. Councilman Duncan said there is still confusion about the City's position and hopes tonight it can be clarified.

6. James Vitol. Mr. Vitol said there are row houses existing on North Adams that were recently part of a comprehensive Map Amendment. In order for this Map Amendment to be workable a Text Amendment was required, but the Mayor and Council did not pass the Text Amendment, causing parking to be a problem. A use permit has now been filed. It is his feeling that all the property should be put back in the residential zone and he asked that the Mayor and Council consider requesting the staff to take a look at the properties and unzone what was done as a mistake. He further noted that he agrees with Mr. Weirich. He would like to see the rest of the County know what is going on with the delaying tactics being taken by the County Council. Mayor Freeland asked the City Manager check into Mr. Vitol's suggestion with the Planning Department and alert the Planning Commission that the Council is looking into it.

There being no other citizen wishing to speak, the Mayor closed the citizen's forum portion of the meeting.

Re: Public Hearing: Annexation
Petition, X-85-81, "Wheel of
Fortune", 14.66 acres, more or
less, including Lot 58 in Block
lettered C, north of the GEICO
building, east of I-270 at
Montrose

The Mayor and Council conducted a public hearing on Annexation Petition, X-85-81, and heard those persons as will be found in the official stenographic transcript of the hearing. There being no other citizen wishing to be heard, the Mayor declared the hearing closed with the record to be held open two weeks.

Re: Update on matters at the
Rockville Commons of Court-
house Square

Mr. Titus told the Council that the Commons bankruptcy hearing was held. The owners of the Commons were told that they were to present a reorganization plan in ten days that was acceptable to all the debtors. They did not comply so the venue was changed and the case will be heard in Rockville. The City Manager told the Mayor and Council that this past week a meeting was held and the City Attorney, the Director of Community Development and he met with the Commons owners and Roger Eisinger to discuss their proposals.

Roger Eisinger has expressed continued interest in the acquisition of the Rockville Mall. The major problem he has encountered has been a difference of opinion with the City regarding the control and use of existing parking within the Town Center Garage. Mr. Eisinger has recently proposed some changes in his original position regarding the Garage. He says that he has arrived at a preliminary stage of agreement with Rockville Redevelopment Associates (RRA) and New York State Teachers Retirement System (NYSTRS) regarding his becoming a managing partner in a new joint venture for the control and re-development of the Mall.

Mr. Eisinger's proposed arrangements for the Mall and a summary of his latest proposal for the Town Center Garage are as follows:

o Ownership of Mall

Rockville Redevelopment Associates will contribute the property to a new joint venture with Eisinger and Kilbane for a 50 percent interest as a limited partner. RRA's interest will be reduced to one-third at a later date. Eisinger will assume \$450,000 of unpaid bills, mainly \$380,000 of real estate taxes and will make annual payments of \$62,500 to RRA over a four (4) year period. RRA will assume responsibility for present litigation and for landlord/tenant situations now pending.

o First Mortgage

New York State Teachers will restructure the first mortgage and will be reimbursed for expenses incurred for paying Mall electric bills. The New York State Teachers Retirement System will restructure the first mortgage in the amount of \$10.2 million. From July 1, 1982 to December 31, 1985 the loan would bear 9.67 percent interest only and would be deferred. Beginning January 1, 1986 the interest rate would be 8 1/2 percent and paid at a 9.67 percent constant rate. In addition, the \$3.4 million of the deferred interest would be paid over a ten (10) year period.

o Additional Financing

Mr. Eisinger will personally borrow \$2.0 million which shall be used for Mall improvements including a new roof. It is projected that the new venture will have to expend \$5.0 million to \$7.0 million over a three (3) - four (4) year period to redevelop the Mall.

o Second Mortgage

The City would be asked to remove its second mortgage from the property replacing it with an obligation for RRA to retire it commencing eight (8) - ten (10) years from closing, if funds are available.

o Parking Agreement

With regard to the Town Center Garage, Mr. Eisinger proposes:

a. To pay the City \$40,000 per year for the first four (4) years of the agreement during which the City will operate the Garage.

b. Three hundred (300) parking spaces will be designated for use by a hotel to be developed by Winmar/Nordal. These spaces may be operated either by Eisinger or by the hotel itself.

c. At the end of the initial four (4) years, Mr. Eisinger will assume responsibility for the operation of the Garage. In doing so, he will pay all operating and maintenance costs and will receive all revenues. In return for the control of the Garage, Mr. Eisinger will make annual payments of \$563,000 (less the amount for 300 hotel spaces) to the City. These payments will be increased at a rate of 3 percent per year un compounded. That revenue can be utilized by the City to retire the Garage bonds.

f. Mr. Eisinger has agreed to a six (6) year moratorium on the development of office towers above the Mall, unless he secures a major tenant with a need for 100,000 or more square feet of space.

Councilman Tyner noted that Mr. Eisinger said he cannot be part of a parking district. He asked where this plan for the district now stands. The City Manager said the staff is beginning to develop information for the Council. Councilman Tyner asked that in this development, they consider the various alternatives 1) all downtown, 2) all downtown but the Mall, etc.

Councilman Abrams also asked that the staff develop the question of legality of the City's divesting itself of the Mall at more than its original cost and contributing their profits to a parking district. Mayor Freeland asked if the staff is prepared to proceed with further discussions. The City Manager said yes they will continue

with further discussions and the City should receive the following things from Mr. Eisinger in order to proceed:

1. A physical redevelopment plan for the Mall, (1) indicating intended retail-office use by location; (2) addressing east-west and north-south public access; and (3) showing what modifications are to be made to the exterior of the Mall.
2. A financial redevelopment plan proposing expenditures for renovations, fixturing for tenants, marketing, architectural and engineering services, etc.
3. Performance schedules for repairs, renovations, and occupancy of tenants.
4. Financial pro formas, so that the City can determine whether or not the subsidy proposed by Eisinger is warranted and whether or not the Mall could afford to be in a parking district.

Re: Correspondence

The Mayor and Council noted the following items of correspondence:

1. Dick Haight, re cost of mural
2. Thomas Carroll, re Rockville Police

Councilman Duncan asked why a ticket is given for a left wheel to the curb. The City Manager explained that a car parked with its left wheel to a curb must pull out into the oncoming traffic lane with the driver's vision obscured until the very last moment. He noted it is not a primary concern of the police, but if it is observed it is ticketed so that it can be discouraged. Councilman Duncan asked if there was a problem with this. The Chief of Police explained that the law has been on the State of Maryland's books for about thirty years and he spoke in favor of it. He also explained how a warning is generally given out before a ticket and the fact that tickets are an adjunct part of other assignments and also are a good way of placing officers in a location so that they can serve as witnesses if a crime should occur.

3. Eleanor Zappone, Board of Education, re renaming of West Rockville Elementary

Councilman Tyner asked that a letter be sent to the School Board saying the City has no objection to the name change and thanking the School Board for the opportunity to comment.

4. Mrs. Frances Dellon, re nuclear freeze

Councilman Tyner asked if the staff is in the process of gathering information on this. The City Manager said they will be.

Re: Information Items

The Mayor and Council noted the following items of information:

1. Copy of letter of complaint regarding absentee ballots
2. Copy of letter of complaint about Grand Union compressor
3. Copy of letter of complaint about Ritchie Park Center

Councilman Tyner asked the City Manager to keep the Council informed in case they need to do anything about that.

4. Press release concerning City Manager

Councilman Abrams congratulated the City Manager on his appointment.

5. Letter complimenting City employees
6. Article by City Manager
7. Memo re Montgomery Bill 76-81, Homeowners Associations
8. Information on landfill meeting of Montgomery Council and copy of letter from Civic Federation to Ray Schoenke

Councilman Duncan said there seems to be confusion over the City's stand regarding the Laytonsville Landfill. He would like to see a letter drafted to the Montgomery County Council reaffirming the City's position and stating that the City will take legal action to assure the closing of Gude. The Council discussed the various wordings of the letter with City Attorney Paul Glasgow. Councilman Abrams suggested that additional language be added saying if the County Council has any alternative to propose, they might let Rockville know and afford the City the opportunity to review it. Councilman Duncan disagreed and said that Mr. Abrams' statement is not consistent with what he is saying. The time has come for them to make a decision. He does not want to discuss alternatives to the opening of Laytonsville. Councilwoman Hovsepian agreed with Mr. Duncan. Councilman Duncan said it has gone on long enough to make a decision. Councilman Tyner said he agrees 100 percent. The letter is consistent with the City's position and it has been the City's position over the last 8 years. He would like a nice clear, flat statement. It was the Council's consensus that the letter be sent with the line as suggested by Mr. Duncan and approved by Mr. Glasgow saying the City would take any and all appropriate legal action.

9. Memo on ACSC
10. Memo from City Attorney re Woodmont v. Montgomery County.

Re: Executive Session

On motion of Councilman Tyner, duly seconded and unanimously passed, the meeting was closed for executive session to discuss litigation.

Re: Adjournment

There being no further business to come before the Council in executive session, on motion of Councilwoman Hovsepian, the meeting was adjourned at 10:40 p.m. to convene again in budget session on Thursday, May 13, 1982, at 8:00 p.m. or at the call of the Mayor.